

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

Eagle Express Lines, Inc.

Employer

and

International Brotherhood of Teamsters Local 727

Petitioner

Case 13-RC-258675

EMPLOYER’S REQUEST FOR REVIEW

Comes now the Employer, Eagle Express Lines, Inc. (“Employer”), by and through its attorneys Twomey, Latham, Shea, Kelley, Dubin & Quartararo, LLP, files the instant Request for Review of the Decision on Objections and Certification of Representative issued by the Regional Director for Region 13 on June 23, 2020.

I. BACKGROUND

The International Brotherhood of Teamsters Local 727 (“Petitioner”), filed the instant petition, 13-RC-258675 (“Petition”) on April 1, 2020, seeking to represent a bargaining unit of all full-time, regular part-time, and trainee drivers dispatched from Employer’s Bedford Park, Illinois location. On April 8, 2020 the Employer timely filed its Statement of Position in response to the Petition.

The Employer and the Petitioner executed a Stipulated Election Agreement (“Stipulation”) utilizing the mail ballot process on or about April 9, 2020. The Regional Director for Region 13 approved the Stipulation executed by the Employer and the Petitioner on April 9, 2020. On April 9, 2020 the Regional Director for Region 13 served the executed Stipulation upon the Employer and the Petitioner and enclosed a document entitled “Description of Election

and Post-Election Representation Case Procedures.” On April 10, 2020, the Regional Director for Region 13 issued and served a Notice of Election Instructions to Employees Voting by U.S. Mail (“Instructions”) on bargaining unit employees. The Stipulation provided that the mail ballots were to be served on April 16, 2020 and to be returned no later than May 7, 2020, with the counting of the mail ballots to occur on May 11, 2020.

On May 8, 2020, the Regional Director for Region 13 unilaterally issued an Order Extending the Mail Ballot Period and Rescheduling Ballot Count in Eagle Express Lines, Inc., 13-RC-258675. On May 21, 2020 the Regional Director for Region 13 again unilaterally issued an Order Extending Mail Ballot Period in Eagle Express Lines, Inc., 13-RC-258675.

On June 9, 2020, the Employer, the Petitioner and the representative of Region 13 met by video conference to count the mail ballots. As a consequence, a Tally of Ballots issued. On June 15, 2020, the Employer timely filed Objections to the Election and Offers of Proof.¹ On June 23, 2020, the Regional Director of Region 13 overruled the Employers Objections to the Election and Offers of Proof and issued a Certification of Representative (“Decision”).²

II. GROUNDS FOR REQUEST FOR REVIEW

Pursuant to Section 102.67 of the Rules and Regulations of the Board (“R&R”), a request for review of a Regional Director’s Decision in a representation case may be granted, *inter alia*, on the following basis:

- (1) That a substantial question of law or policy is raised because of the absence of officially reported Board precedent.
- (2) That a substantial question of law or policy is raised because of a departure from, officially reported Board precedent.
- (3) That there are compelling reasons for reconsideration of an

¹ Exhibit L

² Exhibit A

important Board rule or policy.

The Board should grant review in the instant proceeding because to uphold the Decision would be to effectuate the breakdown of the collective bargaining process and the freedom of association, self-organization, and the right to designate a representative of the employees own choosing that the National Labor Relations Act (“Act”) was designed to protect in the context of the mail ballot election process, particularly in the context of the COVID-19 pandemic. Section 9(a) is completely undermined by the Decision concerning the mail ballot election process:

1. The representation proceeding was represented to be and conducted pursuant to Section 9 of the Act. The Decision confirms and effectuates a mail ballot election process that failed to result in a representative vote of the employees within the bargaining unit set forth in the Stipulation. Notwithstanding the Decision, the Petitioner, through the mail ballot election process, failed to secure the ability to lawfully represent the bargaining unit employees of the Employer described in the Stipulation because the mail ballot election process failed to produce the representative vote, having secured mail ballot support from approximately 20% of the employees within the bargaining unit set forth in the Stipulation. In the absence of a representative vote resulting from the utilization of the mail ballot election process as required by Section 9(a) of the Act, the Regional Director for Region 13 cannot appropriately conclude, as set forth in the Decision, that the Petitioner has been designated and/or selected for purposes of collective bargaining or otherwise by a majority of the Employer’s employees in an appropriate bargaining unit as required by Section 9(a) of the Act through the mail ballot election process. See, *Standard Lime and Stone Company*;³ *In the Matter of S.A. Kendall, Jr.*⁴ As a result, the Regional Director for Region 13 cannot appropriately certify the Petitioner as the representative

³ 56 NLRB 522, 523

⁴ 41 NLRB 395, 397

of the Employer's employees within the bargaining unit set forth in the Stipulation based upon the results set forth in the Tally of Ballots regarding the mail ballot election process, as set forth in the Decision.

2. As reflected in the Tally of Ballots issued in the mail ballot election process, approximately 20% of the employees within the bargaining unit set forth in the Stipulation cast ballots in accordance with the Instructions, which employee participation on behalf of Petitioner is not an appropriate "showing of interest" required to commence a representation proceeding under Section 9(a) of the Act. Therefore, based upon the Tally of Ballots, the mail ballot election process resulting in voter participation below 30% of the bargaining unit is not a representative vote, notwithstanding the Decision. As a consequence of the Tally of Ballots resulting from the mail ballot election process, the Employer has a good faith doubt as to Petitioner's majority status as defined under Sections 9(a) and 8(a)(5) of the Act, thereby precluding the certification of the Petitioner as set forth in the Decision.

3. The Decision, based upon the Tally of Ballots within the mail ballot election process, requires the Employer to recognize and bargain with the Petitioner when only approximately 20% of eligible employees cast mail ballots in support of the Petitioner in the mail ballot election that failed to result in a representative vote.

4. The Decision does not effectuate the purpose and policy of the Act, as the Decision ignores the exercise by 80% of the bargaining unit employees of their full freedom of association, self-organization, and the right to designate a representative of their own choosing within the mail ballot election process, through their collective and/or individual decision not to cast a mail ballot in support of Petitioner. The Instructions issued by Region 13 to all employees within the appropriate bargaining unit set forth in the Stipulation, informed all bargaining unit

employees that he/she has the right in the mail ballot process to refuse to engage in protected activity, which inherently includes the right to participate in the mail ballot process utilizing U.S. mail and/or the right to refuse to participate in the mail ballot election process without relinquishing the bargaining unit employee's right to not be represented by the Petitioner by not permitting a representative vote to occur.

5. Consistent with the purpose and policy of the Act, particularly as set forth in Section 9(a), based upon the Tally of Ballots, the Decision is erroneous to certify the Petitioner as the collective bargaining representative of the bargaining unit of employees set forth in the Stipulation in the context of the mail ballot election process because the Tally of Ballots demonstrates that although 34 employees were provided with a mail ballot and Instructions by Region 13 to cast for or against the Petitioner approximately 80% of the bargaining unit employees exercised his/her/their right(s) to refrain from selecting the Petitioner as the bargaining unit collective bargaining representative resulting in only 20% of the bargaining unit choosing to select the Petitioner as a collective bargaining representative in the mail ballot election process, which is not a representative vote by the bargaining unit employees as required under Section 9(a) of the Act.

6. The Regional Director for Region 13 unilaterally extended the mail ballot process on two (2) occasions without appropriately receiving the consent of the Petitioner and the Employer in order to inappropriately affect the outcome of the mail ballot election process.

III. FACTS

On April 1, 2020, the Petitioner filed a representation petition with Region 13 of the Board seeking to represent a bargaining unit of employees employed by the Employer located in

Bedford Park, Illinois.⁵ In the representation petition, the Petitioner indicated:

“A substantial number of employees wished to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its *proper authority pursuant to Section 9 of the National Labor Relations Act.*”⁶ (emphasis added)

Relying upon Petitioners’ representations set forth above, the Employer and Petitioner executed a Stipulation on or about April 9, 2020.⁷ The Regional Director for Region 13 approved the Stipulation executed by the Employer and Petitioner on April 9, 2020.⁸ The Stipulation required that a mail ballot election process be utilized to determine the representational status of the Petitioner pursuant to Section 9 of the Act, as follows:

“4. ELECTION. The election will be conducted by mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 13, on Thursday, April 16, 2020. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 13 office by close of business on May 7, 2020. The mail ballots will be counted at the Region 13 office located at Dirksen Federal Building, 219 South Dearborn Street, Suite 808, Chicago, IL 60604-2027 or by via electronic means at 10:00 a.m. on May 11, 2020.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Region 13 office by no later than 5:00 p.m. on April 23, 2020 in order to arrange for another mail ballot kit to be sent to that employee.”⁹

On April 9, 2020 the Regional Director for Region 13 served the executed Stipulation upon the Employer and the Petitioner and enclosed a document entitled “Description of Election

⁵ Exhibit B

⁶ Id.

⁷ Exhibit C

⁸ Exhibit D

⁹ Id.

and Post-Election Representation Case Procedures” which provided in part, as follows:

“Certification in Absence of Objections, Determinative Challenges, and Runoff Elections- If no timely objections are filed, no runoff election is required to be held, and the challenged ballots are insufficient in number to effect the outcome of the election, the regional director will issue a certification of the results of the election, including the certification of the representative *where appropriate*.”¹⁰ (emphasis added)

On April 10, 2020, the Regional Director for Region 13 issued the Instructions. The Instructions, which were mailed to each bargaining unit employee, informed bargaining unit employees that they have the right to “[a]ct together with other employees for your mutual benefit and protection.” The Instructions also indicate that the employees within the bargaining unit may also “choose not to engage in any of these protected activities.”¹¹ The Instructions were appropriately distributed electronically by the Employer to all bargaining unit employees at least three (3) full working days prior to April 13, 2020 pursuant to Section 102.67(k) of the R&R. Essentially, the Instructions informed all bargaining unit employees that they each had the right not to support the Petitioner by not participating in the mail ballot election process by not casting a ballot either for or against the Petitioner.

On April 21, 2020 the Employer timely filed and served an Excelsior List. The Excelsior List demonstrated that the Petitioner sought to raise a question concerning representation within a bargaining unit consisting of approximately 33 employees employed by the Employer.¹² The bargaining unit is located in Bedford Park, Illinois and described in the Stipulation as follows:

“All full-time and regular part-time Drivers employed by the Employer who are dispatched from its 7424 Central Avenue, Chicago, Illinois 60638 location, during the payroll period ending

¹⁰ Id.

¹¹ Exhibit E

¹² Exhibit F

April 4, 2020.”¹³

On May 7, 2020, a representative of Region 13 informed the Petitioner and Employer that “[a]s of this date, only 7 mail ballots have been returned out of approximately 33 voters. Region 13 has historically had similar participation rates in mail ballots as in manual ballots so approximately 20% return rate is much lower than we typically see.”¹⁴ As a consequence, the representative of Region 13 requested “a 2 week extension of the polling to allow additional time for the return of ballots.”¹⁵ It was also represented by the representative of Region 13 that if the Employer and Petitioner agreed, the representative of Region 13 would “prepare a stipulation for your signature and I will send a short notice to employees to be posted about the extension.”¹⁶

At the exact time the Employer responded to the representative of Region 13, the Regional Director for Region 13 unilaterally issued an Order Extending the Mail Ballot Period and Rescheduling Ballot Count in Eagle Express Lines, Inc., 13-RC-258675.¹⁷ The Regional Director for Region 13 determined that “[t]o date, 7 of the 33 mailed ballots to voters has been received by the Regional Office.” As a consequence, the entire mail ballot period was extended to May 21, 2020.¹⁸

On May 21, 2020 the Regional Director for Region 13 without discussion with the Employer’s representative unilaterally issued an Order Extending Mail Ballot Period in Eagle Express Lines, Inc., 13-RC-258675.¹⁹ The Regional Director indicated that as of May 21, 2020 “only eight of the 33 of the mailed ballots to voters has been received by the Regional Office.”²⁰

¹³ Exhibit C

¹⁴ Exhibit G

¹⁵ Id.

¹⁶ Id.

¹⁷ Exhibit H

¹⁸ Id.

¹⁹ Exhibit I

²⁰ Id.

As a consequence, the voting period for the mail ballot portion of the election was extended “to Thursday June 4, 2020,” to be “commingled and counted by video conference at 1 p.m. on Tuesday, June 9, 2020.”²¹

On May 22, 2020 the representative of Region 13 indicated to the Employer and the Petitioner that “[a]t no point either after the first extension or this one did the Region unilaterally re-send any ballots.”²² It was also indicated by the representative of Region 13 that “[t]hose eight that are mentioned in the order are all that have been delivered. The extension is to provide the opportunity for those who have cast their votes to have those votes counted.”²³

On June 9, 2020, the Employer, the Petitioner and the representative of Region 13 met by video conference to count the mail ballots. As a consequence, a Tally of Ballots issued which indicated that of 34 eligible voters within the bargaining unit set forth in the Stipulation, only 8 bargaining unit employees employed by the Employer participated in the mail ballot election process by casting a ballot. It is important to note that 7 of the mail ballots had the same postmark date (4/21/2020) and the same date of receipt by Region 13 (4/23/2020) indicating that “problems” identified by Region 13 relating to the U.S.P.S. service, were not in fact “problems.” Further, 7 mail ballots were cast for the Petitioner and 1 mail ballot was challenged.²⁴ It was determined by the Tally of Ballots that “[a] majority of the valid votes counted plus challenged ballots (Item 9) has been cast for PETITIONER.”²⁵ On June 23, 2020, the Regional Director certified the results of the election, as set forth in the Tally of Ballots, by the issuance of the Decision and serving it upon the Employer and the Petitioner.²⁶

²¹ Id.

²² Exhibit J

²³ Id.

²⁴ Exhibit K

²⁵ Id.

²⁶ Exhibit A

IV. CONCLUSION

The events leading up to and surrounding the mail ballot election process, including but not limited to, the early onslaught of the COVID pandemic in Illinois, the resulting acts and orders of government, municipal officers, authorities and agencies, as well as the repeated unilateral actions to extend the mail ballot election process, notwithstanding the terms of the Stipulation and Instructions provided to bargaining unit employees, taken by the Regional Director for Region 13 fundamentally altered the laboratory conditions necessary for a fair mail ballot election process as reflected by the Tally of Ballots as set forth in the Decision. As a result, the mail ballot election process as reflected in the Tally of Ballots and Decision failed to result in a representative vote necessary to effectuate the purpose and policy of the Act. Therefore, the representation petition filed by the Petitioner must be dismissed.

Dated: Riverhead, New York
July 7, 2020

Respectfully submitted,

/s/ Jeffrey W. Pagano
Jeffrey W. Pagano
A. Chadwick Briedis
**TWOMEY, LATHAM, SHEA, KELLEY,
DUBIN & QUARTARARO, LLP**
33 West Second Street
P.O. Box 9398
Riverhead, New York 11901
jpagano@suffolklaw.com
cbriedis@suffolklaw.com
T: (631) 727-2180
F: (631) 574-1258

**ATTORNEYS FOR EMPLOYER
EAGLE EXPRESS LINES, INC.**

EXHIBIT A

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

EAGLE EXPRESS LINES, INC.

Employer

and

Case 13-RC-258675

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS LOCAL 727**

Petitioner

**DECISION ON OBJECTIONS
AND CERTIFICATION OF REPRESENTATIVE**

Pursuant to a Stipulated Election Agreement, a mail-ballot election was conducted in this matter. The ballots were mailed to voters on Monday, April 16, 2020. The ballot count was initially scheduled to take place on May 11, 2020. However, because of ongoing delays experienced by the Regional Office in receiving mail from the United States Postal Service, on May 8, 2020, I ordered that the voting period be extended to May 21, 2020. Then on May 21, 2020, I ordered another extension of the voting period to June 4, 2020 and I set a date of June 9, 2020 for the ballot count, out of continuing concern about delays in mail delivery to the Regional Office.

The ballot count took place on June 9, 2020, with the parties participating by videoconference call. The tally of ballots showed that of the approximately 31 eligible voters, seven cast ballots for Petitioner and one voter cast a ballot against representation. There was one challenged ballot and there were no void ballots.¹ Therefore, the Petitioner received a majority of the votes counted.

The Employer timely filed four objections to the conduct of the election. I have considered the Employer's objections and offer of proof. As discussed below, the Employer's objections do not raise any facts or arguments requiring that the election be set aside. Accordingly, I am overruling the objections and issuing a Certification of Representative.

I. The Objections

Each of the four Employer objections raises one identical factual issue, which is that only eight of the approximately 31 eligible employees voted in the election. The Employer did not raise any other objections to the processing of the election or to the conduct of any party either

¹ The challenges were not sufficient in number to affect the results of the election.

before, during, or after the conducting of the election.² Consequently, the only issue before me is whether the results of the election should be overturned based solely on the extent of voter participation.

In *Lemco Construction*, 283 NLRB 459, 460 (1987), the Board held that "election results should be certified where all eligible voters have an adequate opportunity to participate in the election, notwithstanding low voter participation." See also *Community Care Systems*, 284 NLRB 1147 (1987) (Board affirms that low voter participation will not invalidate election results in absence of evidence that employees were prevented from voting). The Employer did not argue or present evidence of events or conduct which interfered with the ability of any voters to participate in the election. In fact, the Employer argued within its objections that the employees who chose not to vote were deliberately exercising their rights under Section 7 of the Act not to participate in the election. The Employer's reference to the "Instructions issued by the Region and served upon each employee" in Objection 3 appears to suggest employees are instructed that if they refrain from voting, it will be considered a vote against representation. However, the instructions are clear: "A majority of the valid ballots cast will determine the results of the election." In the absence of evidence that any of the eligible voters were prevented from voting, the amount of voter participation by itself is insufficient to warrant setting aside the election results.

II. Conclusion

Based on the above, I overrule the objections, and I shall certify the Petitioner as the representative of the appropriate bargaining unit described below.

Certification of Representative

IT IS HEREBY CERTIFIED that the majority of the valid ballots have been cast for International Brotherhood of Teamsters Local 727, and that it is the exclusive representative of all the employees in the following bargaining unit:

Included: All full-time and regular part-time Drivers employed by the Employer who are dispatched from its 7424 Central Avenue, Chicago, IL 60638 location.

Excluded: All other employees, office employees, professional employees, managerial employees, guards and supervisors as defined by the Act.

Request for Review

Pursuant to Section 102.69(c)(2) of the Board's Rules and Regulations, any party may file with the Board in Washington, DC, a request for review of this decision which may be combined with a request for review of the regional director's decision to direct an election as

² The four objections also raise separate legal arguments which all trace back to the Employer's sole objection that only eight of 31 eligible voters participated in the election. These arguments do not raise any other factual issues.

provided in Sections 102.67(c) and 102.69(c)(2), if not previously filed. The request for review must conform to the requirements of Sections 102.67(e) and (i)(1) of the Board's Rules and must be received by the Board in Washington by **July 7, 2020**. If no request for review is filed, the decision is final and shall have the same effect as if issued by the Board.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the Request for Review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Dated this 23rd day of June 2020

/s/ Peter Sung Ohr

Peter Sung Ohr, Regional Director
National Labor Relations Board, Region 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, Illinois 60604-2027

EXHIBIT B

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.

13-RC-258675

Date Filed

4/1/20

INSTRUCTIONS: Unless e-Filed using the Agency's website, www.nlr.gov, submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. **The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.**

2a. Name of Employer: Eagle Express Lines, Inc.		2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code): 925 W. 175th St. Homewood, IL 60430	
3a. Employer Representative - Name and Title: Shawn Haslam		3b. Address (if same as 2b - state same): Same	
3c. Tel. No. 630-783-9860	3d. Cell No.	3e. Fax No.	3f. E-Mail Address Jasonhaslam@eagleexpresslines.com
4a. Type of Establishment (Factory, mine, wholesaler, etc.) Transportation		4b. Principal Product or Service Delivery Services	
5a. City and State where unit is located: Bedford Park, IL		5b. Description of Unit Involved: Included: All full time, regular part time, and trainee drivers dispatched from Bedford Park, IL.	
6a. Number of Employees in Unit: 33		6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Excluded: All office, clerical employees, guards, professional employees and supervisors as defined by the Act			
Check One: <input checked="" type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) 4/1/20 and Employer declined recognition on or about (Date) w/petition (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.			
8a. Name of Recognized or Certified Bargaining Agent (If none, so state) None		8b. Address:	
8c. Tel. No.	8d. Cell No.	8e. Fax No.	8f. E-Mail Address
8g. Affiliation, if any:		8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
9. Is there now a strike or picketing at the Employer's establishment(s) involved? NO <input checked="" type="checkbox"/> If so, approximately how many employees are participating? (Name of Labor Organization) , has picketed the Employer since (Month, Day, Year)			
10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state) None			
10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.
		10e. Fax No.	10f. E-Mail Address
11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election: 11a. Election Type: <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
11b. Election Date(s): April 17, 2020		11c. Election Time(s): 8am-12pm	
11d. Election Location(s): 6520 S. Cicero Ave, Chicago, IL 60638			
12a. Full Name of Petitioner (including local name and number): International Brotherhood of Teamsters Local 727		12b. Address (street and number, city, State and ZIP code): 1300 W. Higgins Rd, Suite 111, Park Ridge, IL 60638	
12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state): International Brotherhood of Teamsters			
12d. Tel. No. 847-696-7500	12e. Cell No.	12f. Fax No. 847-720-4984	12g. E-Mail Address jayna@teamsterslocal727.org
13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.			
13a. Name and Title: Jayna Brown, General Counsel		13b. Address (street and number, city, State and ZIP code): 1300 W. Higgins Rd, Suite 111, Park Ridge, IL 60638	
13c. Tel. No. 847-696-7500	13d. Cell No.	13e. Fax No. 847-720-4984	13f. E-Mail Address jayna@teamsterslocal727.org
I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.			
Name (Print) Jayna Brown	Signature Jayna Brown	Title General Counsel	Date 4/1/20

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

EXHIBIT C

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

Eagle Express Lines, Inc.

Case 13-RC-258675

The parties **AGREE AS FOLLOWS:**

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, Eagle Express Lines, Inc., an Illinois corporation, is a federal contractor and is engaged in the business of transporting goods. During the past twelve months, a representative period, the Employer, from its Chicago, IL location, has purchased and received goods valued in excess of \$50,000 to customers located directly outside the state of Illinois.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. The election will be conducted by mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 13, on Thursday, April 16, 2020. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 13 office by close of business on May 7, 2020. The mail ballots will be counted at the Region 13 office located at Dirksen Federal Building, 219 South Dearborn Street, Suite 808, Chicago, IL 60604-2027 or by via electronic means at 10:00 a.m. on May 11, 2020.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Region 13 office by no later than 5:00 p.m. on April 23, 2020 in order to arrange for another mail ballot kit to be sent to that employee.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time Drivers employed by the Employer who are dispatched from its 7424 Central Avenue, Chicago, IL 60638 location.

Excluded: All other employees, office employees, professional employees, managerial employees, guards and supervisors as defined by the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending April 4, 2020**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in

Initials: 

an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

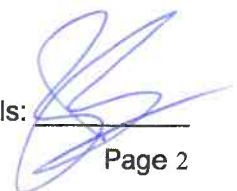
The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by International Brotherhood of Teamsters Local 727?" The choices on the ballot will be "Yes" or "No".

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative:

Rico Prestia
General Manager
7424 Central Avenue
Chicago, IL 60638
708-333-8400
ricoprestia@eagleexpresslines.com

Initials: _____



10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

13. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

Eagle Express Lines, Inc. _____ (Employer)	International Brotherhood of Teamsters Local 727 _____ (Petitioner)
By  _____ (Name)	By _____ _____ (Name)
4/9/2020 _____ (Date)	_____ _____ (Date)

Recommended:

Christina Mols, Field Examiner (Date)

Date approved:

**Regional Director, Region 13
National Labor Relations Board**

EXHIBIT D

NLRB Approved Stipulation Agreement: Eagle Express Lines, Inc., 13-RC-258675

From: Bennett, Timothy <Timothy.Bennett@nrlb.gov>

To: jasonhaslam@eagleexpresslines.com <jasonhaslam@eagleexpresslines.com>, jpagano@suffolkclaw.com <jpagano@suffolkclaw.com>, jayna@teamsterslocal727.org <jayna@teamsterslocal727.org>, ricoprestia@eagleexpresslines.com <ricoprestia@eagleexpresslines.com>

Cc: Mols, Christina <Christina.Mols@nrlb.gov>, Brown, Lori <Lori.Brown@nrlb.gov>

Date: 4/9/2020 5:15 PM

Good Afternoon:

Attached is a conformed copy of the Stipulated Election Agreement in Eagle Express Lines, Inc., 13-RC-258675, that you entered into and has been approved by the Regional Director of Region 13. Also included are further instructions in regards to the processing of the petition to the election. The Notice of Election will be sent by separate email. If you have any questions, please contact NLRB Board Agent Christina Mols at Christina.Mols@nrlb.gov or (312)353-7608.

Sincerely,

Timothy D. Bennett

On behalf of Regional Director, Peter Sung Ohr

Attachments:

- LTR.13-RC-258675.Letter Sending out Approved AGR NO NEE _case filed on or after 4-14-2015_ (5).pdf
- AGR.13-RC-258675.Stipulated Election Agreement (Conformed).pdf



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-2027

Agency Website: www.nlrb.gov
Telephone: (312)353-7570
Fax: (312)886-1341

April 9, 2020

jasonhaslam@eagleexpresslines.com
Shawn Haslem
Eagle Express Lines, Inc.
925 West 175th Street
Homewood, IL 60430

jayna@teamsterslocal727.org
Jayna Brown, General Counsel
International Brotherhood of Teamsters Local 727
1300 Higgins Road, Suite 111
Park Ridge, IL 60068-5764

Re: Eagle Express Lines, Inc.
Case 13-RC-258675

Dear Mr. Haslem and Ms. Brown:

Enclosed is a copy of the election agreement that I have approved in this case. This letter will provide you with additional information about the voter list, posting the election notices, and the agreed-upon election arrangements.

Voter List

The employer must provide the regional director and parties an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters, **accompanied by a certificate of service** on all parties.

To be timely filed and served, the list must be *received* by the regional director and the parties by **Monday, April 13, 2020. The region will no longer serve the voter list.** The employer's failure to file or serve the list within the specified time or in the proper format is grounds for setting aside the election whenever proper and timely objections are filed. However, the employer may not object to the failure to file or serve the list in the specified time or in the proper format if it is responsible for the failure.

The list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font

must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the employer must electronically file the list with the regional director and electronically serve the list on the other parties. Electronic filing of the list with the NLRB through the Agency website is preferred but not required. To file electronically, go to **www.nlr.gov**, click on **E-File Documents**, enter the **NLRB case number**, and follow the detailed instructions. The list also may be submitted to our office by email or fax to (312)886-1341. The burden of establishing the timely filing and receipt of the list is on the sending party.

Posting of Election Notices

Notices of Election will be electronically transmitted to the parties, if feasible, or by overnight mail if not feasible. Section 102.67(k) of the Board's Rules and Regulations requires the Employer to timely post copies of the Board's official Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted. You must also distribute the Notice of Election electronically to any employees in the unit with whom you customarily communicate electronically. In this case, the notices must be posted and distributed **before 12:01 a.m. on Monday, April 13, 2020**. If the Employer does not receive copies of the notice by **Friday, April 10, 2020** it should notify the Regional Office immediately. Pursuant to Section 102.67(k), a failure to post or distribute the notice precludes an employer from filing objections based on nonposting of the election notice.

To make it administratively possible to have election notices and ballots in a language other than English, please notify the Board agent immediately if that is necessary for this election. Also, as noted in paragraph 10 of the stipulated election agreement, if special accommodations are required for any voters, potential voters, or election participants to vote or reach the voting area, please tell the Board agent as soon as possible.

Please be advised that in a mail ballot election, the election begins when the mail ballots are deposited by the Region in the mail.

Election Arrangements

The arrangements for the election in this matter are as follows:

Date and Time Mail Ballots to be Sent to Voters: Thursday, April 16, 2020 at 5:00 p.m.

Date Voters Are Requested to Notify Regional Office if Mail Ballot Not Received or Replacement Ballot Is Needed: Thursday, April 23, 2020

Date Mail Ballots From Voters Must Be Received by Regional Office:
Thursday, May 7, 2020

Date, Time and Place of Ballot Count: The ballot count will be held on Monday, May 11, 2020 at 10:00 a.m. at 219 South Dearborn Street, Suite 808, Chicago, Illinois 60604-2027 or via electronic means.

Representatives of the parties are invited to attend and observe the ballot count at which time they must voice any challenges to any of the ballots.

Enclosed is a Description of Election and Post-Election Procedures in Representation Cases, Form NLRB-5547, which describes the election and the method for handling challenges as well as post-election proceedings to deal with determinative challenges and any objections that are filed.

If you have any questions, please feel free to contact Field Examiner Christina Mols at telephone number (312)353-7608 or by email at christina.mols@nrlb.gov. The cooperation of all parties is sincerely appreciated.

Very truly yours,

/s/Peter Sung Ohr

Peter Sung Ohr
Regional Director

Enclosures

1. Approved Election Agreement
2. Designation of Observer Form
3. Description of Procedures in Election and Post-Election
Representation Case Procedures (Form 5547)

cc: jpagano@suffolkclaw.com
Jeffrey W. Pagano, ESQ.
Twomey, Latham, Shea, Kelley, Dubin &
Quartararo LLP
33 West Second Street
P.O. Box 9398
Riverhead, NY 11901--9398

ricoprestia@eagleexpresslines.com
Rico Prestia, General Manager
7424 Central Avenue
Chicago, IL 60638

DESIGNATION OF OBSERVER(S)

Re: Eagle Express Lines, Inc.
Case 13-RC-258675

Eagle Express Lines, Inc. hereby designates the individual listed below to act as its observer during the election in the above case.

Observer's Name	Observer's Job Title
1.	

I certify that each of the above-named individuals is an employee of the Employer and is not a supervisor within the meaning of Section 2(11) of the Act.

Eagle Express Lines, Inc.

(Name of Party)

By: _____

(Signature)

(Representative Name: Print or Type)

(Representative Title)

(Date)

Note: Board law prohibits any statutory supervisor from serving as an election observer. Section 2(11) of the National Labor Relations Act states: "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

DESIGNATION OF OBSERVER(S)

Re: Eagle Express Lines, Inc.
Case 13-RC-258675

PETITIONER **International Brotherhood of Teamsters Local 727** hereby designates the individual listed below to act as its observer during the election in the above case.

Observer's Name	Observer's Job Title
1.	

I certify that each of the above-named individuals is an employee of the Employer and is not a supervisor within the meaning of Section 2(11) of the Act.

International Brotherhood of Teamsters Local 727

(Name of Party)

By:

(Signature)

(Representative Name: Print or Type)

(Representative Title)

(Date)

Note: Board law prohibits any statutory supervisor from serving as an election observer. Section 2(11) of the National Labor Relations Act states: "The term 'supervisor' means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment."

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF ELECTION AND POST-ELECTION
REPRESENTATION CASE PROCEDURES**

Election – A secret ballot election will be conducted by an agent of the National Labor Relations Board on the date and at the time(s) and location(s) specified in the Notice of Election. Unless the election is conducted by mail ballot, each party is usually represented by an equal number of observers at the polls during the election. When a voter appears to vote, the voter is asked to state his or her name and is given a ballot to take to a voting booth and mark in secret. The voter folds the marked ballot and then drops it into a ballot box without showing the marking to anyone. Parties or the Board agent may challenge for good cause the eligibility of a voter to participate in the election. A challenged voter will place his or her ballot in a special envelope before placing it in the ballot box. After the time for voting has concluded but before counting the ballots, the Board agent will see if the parties can agree to resolve some or all of the challenges. The Board agent will then count the ballots and prepare a Tally of Ballots and make that Tally available to the parties. If the unresolved challenged ballots will not determine the outcome of the election, the challenged ballots are never opened and no determination is made on the voters' eligibility. If the remaining challenged ballots are determinative of the results of the election, those challenged ballots will be sealed in a special envelope in front of the parties and stored in a safe in an NLRB office.

Challenged Ballots – If the challenged ballots are determinative, the regional director will send a letter to the parties after the election, listing the challenged voters and asking the parties to submit a statement of position with respect to the challenge to the ballot of each voter listed above detailing why each of the challenged individuals is or is not eligible to vote. The regional director will then determine whether it is necessary to conduct an investigation or schedule a hearing to resolve the determinative challenges.

Objections – Within 7 days after the Tally of Ballots has been prepared, any party may file objections to the conduct of the election or to conduct affecting the results of the election. The objections must be submitted within this time frame, regardless of whether the challenged ballots are sufficient in number to affect the results of the election. The objections must contain a short statement of the reasons for the objections and be accompanied by a written offer of proof identifying each witness the party would call to testify concerning the issue and summarizing the witness's testimony. Upon a showing of good cause, the regional director may extend the time for filing the offer of proof. The party filing the objections will serve a copy of the objections, but not the written offer of proof, on each of the other parties to the case, and include a certificate of service with the objections. The objections may be E-Filed through the Agency's E-Filing system. Objections may also be submitted by facsimile transmission, but the filer must also file an original for the Agency's records.

Certification in the Absence of Objections, Determinative Challenges, and Runoff Elections -- If no timely objections are filed, no runoff election is required to be held, and the challenged ballots are insufficient in number to affect the results of the election, the regional director will issue a certification of the results of the election, including certification of representative where appropriate.

Regional Office Investigation and Decisions without a Hearing -- A Board agent may be assigned to conduct an administrative investigation of determinative challenges and objections. If the regional director determines that the evidence described in the offer of proof would not constitute grounds for setting aside the election if introduced at a hearing, and the regional director determines that any determinative challenges do not raise substantial and material factual issues, the regional director will issue a decision disposing of the objections and determinative challenges, and a certification of the results of the election, including certification of representative where appropriate.

Notices of Hearing on Challenges and/or Objections -- The regional director will schedule the hearing on challenges and/or objections 21 days after the preparation of the tally of ballots or as soon as practicable thereafter, unless the parties agree to an earlier date. In some cases, the regional director may consolidate the hearing concerning

objections and challenges with an unfair labor practice proceeding before an administrative law judge. In any proceeding involving a consent election where the representation case has been consolidated with an unfair labor practice proceeding for hearing, the administrative law judge will, after issuing a decision, sever the representation case and transfer it to the regional director for further processing. If there was no consent election, the administrative law judge's recommendations on objections and/or challenges that have been consolidated with an unfair labor practice proceeding will be ruled upon by the Board if exceptions are filed or adopted in the absence of exceptions.

Voluntary Resolution -- An objecting party may wish to withdraw its objections. The withdrawal may be oral or written. When objections are withdrawn, the regional director may issue the appropriate certification. If the parties agree to set aside the election and conduct a new one, the Board agent will prepare a written agreement for their signature and approval by the regional director. Agreement of the objecting party is not required.

Hearing on Challenges and/or Objections -- The hearing will continue from day to day until completed unless the regional director concludes that extraordinary circumstances warrant otherwise. Any party will have the right to appear at the hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the objections and determinative challenges that are the subject of the hearing. Post-hearing briefs may be filed only upon special permission of the hearing officer and within the time and addressing the subjects permitted by the hearing officer.

Hearing Officer's Report and Exceptions -- After the hearing, the hearing officer will prepare and serve on the parties a report resolving questions of credibility and containing findings of fact and recommendations as to the disposition of the post-election issues. Within 14 days from the issuance of that report, any party may file with the regional director exceptions to that report and a supporting brief if desired. A copy of the exceptions and any supporting brief must immediately be served on the other parties and a statement of service filed with the regional director. Within 7 days from the last date on which exceptions and any supporting brief may be filed, or such further time as the regional director may allow, a party opposing the exceptions may file an answering brief. A copy of the answering brief must immediately be served on the other parties and a statement of service filed with the regional director. Thereafter, the regional director will decide the matter or make other disposition of the case. If no exceptions to the hearing officer's report are filed, the regional director may decide the matter upon the record or make other disposition of the case. The decision of the regional director will be final unless a request for review is granted by the Board.

Briefs in support of exceptions and answering briefs may not exceed 50 pages, excluding the subject index and table of cases and authorities, unless permission is obtained from the regional director by motion, setting forth the reasons for exceeding the limit, filed not less than 5 days (including Saturdays, Sundays, and holidays) before the date the brief is due. If a brief filed exceeds 20 pages, it must contain a subject index with page references and an alphabetical table of cases and authorities. All documents filed with the regional director must be double spaced and on 8 ½ by 11-inch paper, and be printed or otherwise legibly duplicated.

Request For Review by the Board -- In stipulated and directed election cases, any party may request Board review of the regional director's post-election decision. The request for review must be filed with the Board within 14 days of the director's post-election decision and must be served on the regional director and the other parties. This may be combined with a request for review of the regional director's decision to direct an election. A statement of service must also be filed with the Board. Any party opposing the request for review may file a statement in opposition within 7 days after the last day for which the request for review must be filed. If the Board grants the request for review, the parties have 14 days from the order granting review to file briefs with the Board. A party seeking review must identify a significant, prejudicial error or some other compelling reason for Board review.

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
STIPULATED ELECTION AGREEMENT

Eagle Express Lines, Inc.

Case 13-RC-258675

The parties **AGREE AS FOLLOWS:**

1. PROCEDURAL MATTERS. The parties waive their right to a hearing and agree that any notice of hearing previously issued in this matter is withdrawn, that the petition is amended to conform to this Agreement, and that the record of this case shall include this Agreement and be governed by the Board's Rules and Regulations.

2. COMMERCE. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act and a question affecting commerce has arisen concerning the representation of employees within the meaning of Section 9(c).

The Employer, Eagle Express Lines, Inc., an Illinois corporation, is a federal contractor and is engaged in the business of transporting goods. During the past twelve months, a representative period, the Employer, from its Chicago, IL location, has purchased and received goods valued in excess of \$50,000 to customers located directly outside the state of Illinois.

3. LABOR ORGANIZATION. The Petitioner is an organization in which employees participate, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and is a labor organization within the meaning of Section 2(5) of the Act.

4. ELECTION. The election will be conducted by mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 13, on Thursday, April 16, 2020. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 13 office by close of business on May 7, 2020. The mail ballots will be counted at the Region 13 office located at Dirksen Federal Building, 219 South Dearborn Street, Suite 808, Chicago, IL 60604-2027 or by via electronic means at 10:00 a.m. on May 11, 2020.

If any eligible voter does not receive a mail ballot or otherwise requires a duplicate mail ballot kit, he or she should contact the Region 13 office by no later than 5:00 p.m. on April 23, 2020 in order to arrange for another mail ballot kit to be sent to that employee.

5. UNIT AND ELIGIBLE VOTERS. The following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time Drivers employed by the Employer who are dispatched from its 7424 Central Avenue, Chicago, IL 60638 location.

Excluded: All other employees, office employees, professional employees, managerial employees, guards and supervisors as defined by the Act.

Those eligible to vote in the election are employees in the above unit who were employed during the **payroll period ending April 4, 2020**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in

Initials: **JWP/JC**

an economic strike which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls or by mail as described above in paragraph 4.

Ineligible to vote are (1) employees who have quit or been discharged for cause after the designated payroll period for eligibility, (2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and (3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

6. VOTER LIST. Within 2 business days after the Regional Director has approved this Agreement, the Employer must provide to the Regional Director and all of the other parties a voter list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available personal home and cellular telephone numbers) of all eligible voters. The Employer must also include, in a separate section of that list, the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge. The list must be filed in common, everyday electronic file formats that can be searched. Unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. The font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. When feasible, the list must be filed electronically with the Regional Director and served electronically on the parties. The Employer must file with the Regional Director a certificate of service of the list on all parties.

7. THE BALLOT. The Regional Director, in his or her discretion, will decide the language(s) to be used on the election ballot. All parties should notify the Region as soon as possible of the need to have the Notice of Election and/or ballots translated.

The question on the ballot will be "Do you wish to be represented for purposes of collective bargaining by International Brotherhood of Teamsters Local 727?" The choices on the ballot will be "Yes" or "No".

8. NOTICE OF ELECTION. The Regional Director, in his or her discretion, will decide the language(s) to be used on the Notice of Election. The Employer must post copies of the Notice of Election in conspicuous places, including all places where notices to employees in the unit are customarily posted, at least three (3) full working days prior to 12:01 a.m. of the day of the election. The Employer must also distribute the Notice of Election electronically, if the Employer customarily communicates with employees in the unit electronically. Failure to post or distribute the Notice of Election as required shall be grounds for setting aside the election whenever proper and timely objections are filed.

9. NOTICE OF ELECTION ONSITE REPRESENTATIVE. The following individual will serve as the Employer's designated Notice of Election onsite representative:

Rico Prestia
General Manager
7424 Central Avenue
Chicago, IL 60638
708-333-8400

Initials: JWP/JC

ricoprestia@eagleexpresslines.com

10. ACCOMMODATIONS REQUIRED. All parties should notify the Region as soon as possible of any voters, potential voters, or other participants in this election who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in the election need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, and request the necessary assistance.

11. OBSERVERS. Each party may station an equal number of authorized, nonsupervisory-employee observers at the polling places to assist in the election, to challenge the eligibility of voters, and to verify the tally.

12. TALLY OF BALLOTS. Upon conclusion of the election, the ballots will be counted and a tally of ballots prepared and immediately made available to the parties.

13. POSTELECTION AND RUNOFF PROCEDURES. All procedures after the ballots are counted shall conform with the Board's Rules and Regulations.

Eagle Express Lines, Inc.

(Employer)

International Brotherhood of Teamsters

Local 727

(Petitioner)

By /s/Jeffrey W. Pagano 4/9/20
(Name) (Date)

By /s/John Coli, Jr. 4/8/20
(Name) (Date)

Recommended: /s/Christina Mols 4/9/20
Christina Mols, Field Examiner (Date)

Date approved: April 9, 2020

/s/Peter Sung Ohr (dnn)

Regional Director, Region 13

National Labor Relations Board

EXHIBIT E

NLRB Notice of Election 13-RC-258675

From: Brown, Lori <Lori.Brown@nlrb.gov>

To: ricoprestia@eagleexpresslines.com <ricoprestia@eagleexpresslines.com>

Cc: Mols, Christina <Christina.Mols@nlrb.gov>, jpagano@suffolkaw.com <jpagano@suffolkaw.com>, jayna@teamsterslocal727.org <jayna@teamsterslocal727.org>, jasonhaslam@eagleexpresslines.com <jasonhaslam@eagleexpresslines.com>

Date: 4/10/2020 3:06 PM

Good afternoon,

Attached is the Notice of Election in Case 13-RC-258675. This Notice should be posted where notices to employees are customarily posted, at least 3 full working days prior to 12:01 a.m. of the day of the election and also distributed electronically if the employer customarily communicates with employees in the unit electronically. If you have any questions, please contact NLRB Board agent Christina Mols at Christina.Mols@nlrb.gov or (312) 353-7608.

Sincerely,

Lori A. Brown,

On behalf of Regional Director, Peter Sung Ohr

Lori A. Brown
Election Assistant
National Labor Relations Board
Region 13 – Chicago
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604
(312) 886-4887 Office / (312) 886-1341 Fax

Attachments:

- LTR.13-RC-258675.Election-Send Out Election Notices.pdf
- NEE.13-RC-258675.Notice of Election-Mail Ballot .pdf
- Instructions To Eligible Employees EAGLE EXPRESS LINES, INC. 13-RC-258675.pdf



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-2027

Agency Website: www.nlrb.gov
Telephone: (312)353-7570
Fax: (312)886-1341

April 10, 2020

Rico Prestia, General Manager
Eagle Express Lines, Inc.
7424 Central Avenue
Chicago, IL 60638
ricoprestia@eagleexpresslines.com

Re: Eagle Express Lines, Inc.
Case 13-RC-258675

Dear Mr. Prestia:

Enclosed are the Notices of Election in the above case. Please post them on bulletin boards and other conspicuous places in areas where the employees in the bargaining unit work. To help avoid an issue about the adequacy of the posting period, **the notices should be posted immediately upon receipt.**

Notice Posting Requirement

Section 102.67(k) of the Board's Rules and Regulations requires employers to post the Board's official Notice of Election (attached) in conspicuous places at least 3 working days, not including Saturdays, Sundays, and holidays, prior to 12:01 a.m. of the day of the election. **Therefore, the enclosed notices must be posted prior to 12:01 a.m. on April 13, 2020.** Failure to comply with this posting requirement is grounds for setting the election aside whenever proper and timely objections are filed. Section 102.67(k) also provides that a failure to post or distribute the notice precludes an employer from filing objections based on nonposting of the election notice, if it is responsible for the nonposting.

To make it administratively possible to have election notices and ballots in a language other than English, please notify the Board agent immediately if that is necessary for this election. Also, as noted in paragraph 10 of the stipulated election agreement, if special accommodations are required for any voters, potential voters, or election participants to vote or reach the voting area, please tell the Board agent as soon as possible.

Very truly yours,

/s/ Peter Sung Ohr

Peter Sung Ohr
Regional Director

Enclosures: One Notice Enclose

cc: Jeffrey W. Pagano, Esq.
Twomey, Latham, Shea, Kelley, Dubin &
Quartararo LLP
33 West Second Street
P.O. Box 9398
Riverhead, NY 11901-9398
jpagano@suffolkclaw.com

Jayna Brown, General Counsel
International Brotherhood of Teamsters
Local 727
1300 Higgins Road, Suite 111
Park Ridge, IL 60068-5764
jayna@teamsterslocal727.org

Shawn Haslem
Eagle Express Lines, Inc.
925 W. 175th St.
Homewood, IL 60430
jasonhaslam@eagleexpresslines.com



United States of America
National Labor Relations Board
NOTICE OF ELECTION



INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL

PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

CHALLENGE OF VOTERS: An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

METHOD AND DATE OF ELECTION

The election will be conducted by mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit from the office of the National Labor Relations Board, Region 13, on Thursday, April 16, 2020. Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 13 office by close of business on May 7, 2020. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by 5:00 p.m., Thursday, April 23, 2020, should communicate immediately with the National Labor Relations Board by either calling the Region 13 Office at (312)353-7570 or our national toll-free line at 1-844- 762-NLRB (1-844- 762-6572).

All mail ballots will be counted at the Region 13 Office located at the Dirksen Federal Building, 219 South Dearborn, Suite 808, Chicago, IL 60604-2027 or via electronic means on Monday, May 11, 2020 at 10:00 a.m. In order to be valid and counted, the returned ballots must be received in the Region 13 Office prior to the counting of the ballots.



United States of America
National Labor Relations Board
NOTICE OF ELECTION



INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL

**EAGLE EXPRESS LINES, INC.
CHICAGO, IL**

**13-RC-258675
STIPULATED**

VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time Drivers employed by the Employer who are dispatched from its 7424 Central Avenue, Chicago, IL 60638 location; during the payroll period ending April 4, 2020.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees, office employees, professional employees, managerial employees, guards and supervisors as defined by the Act.

	<p>UNITED STATES OF AMERICA National Labor Relations Board 13-RC-258675</p> <p>OFFICIAL SECRET BALLOT</p> <p>For certain employees of EAGLE EXPRESS LINES, INC.</p> <p>SAMPLE</p> <p>Do you wish to be represented for purposes of collective bargaining by INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 727?</p>	
<p>MARK AN "X" IN THE SQUARE OF YOUR CHOICE</p>		
<p>YES</p> <p><input type="checkbox"/></p>		<p>NO</p> <p><input type="checkbox"/></p>
<p>DO NOT SIGN THIS BALLOT. See enclosed instructions.</p> <p>The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.</p>		



United States of America
National Labor Relations Board
NOTICE OF ELECTION



INSTRUCTIONS TO EMPLOYEES VOTING BY U.S. MAIL

RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (312)353-7570 or visit the NLRB website www.nlrb.gov for assistance.

United States of America
National Labor Relations Board

**Instructions to Eligible Employees Voting By
United States Mail**



INSTRUCTIONS

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. MAKE NO OTHER MARKS ON YOUR BALLOT.
2. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
3. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
4. PUT BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
5. **SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED.**
6. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
7. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY.

For further information, call the Regional Office at:

Christina Mols (312) 353-7608

TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE

BY 05/07/2020

RIGHTS OF EMPLOYEES

Under the National Labor Relations Act, employees have the right:

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in the setting aside of the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

The National Labor Relations Board protects your right to a free choice

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



NATIONAL LABOR RELATIONS BOARD
an agency of the
UNITED STATES GOVERNMENT

EXHIBIT F

RE: 13-RC-258675 - Voter List

From: NLRBRegion13@nrb.gov <e-Service@service.nrb.gov>

To: jpagano@suffolkaw.com

Date: 4/21/2020 3:37 PM

Confirmation Number: 1032861562

You have successfully accomplished the steps for E-Filing document(s) with the NLRB Region 13, Chicago, Illinois. This E-mail notes the official date and time of the receipt of your submission. Please save this E-mail for future reference.

Date Submitted:	Tuesday, April 21, 2020 2:34 PM (UTC-06:00) Central Time (US & Canada)
Regional, Subregional Or Resident Office:	Region 13, Chicago, Illinois
Case Name:	Eagle Express Lines, Inc.
Case Number:	13-RC-258675
Filing Party:	Employer
Name:	Jeffrey Pagano
Email:	jpagano@suffolkaw.com
Address:	33 West Second Street P.O. Box 9398 Riverhead NY 11901-9398
Telephone:	(631) 574-2877 205
Mobile:	(516) 635-8411
Fax:	(631) 727-1767
Attachments:	Voter List: Eagle Express Lines Inc Case No 13RC258675_Excelsior List Addition.pdf

Your account profile is saved in the **NLRB My Account Portal**. Click here to view your account information, the cases and inquiries you are a party to and any of your previous E-Filings with the NLRB. You will also be able to E-File additional documents to your cases or inquiries. You will use Account No. **1-1844944060** and the email address you used to file your cases or inquiries to access your account. When you use this link to E-File documents your contact information will be pre-populated on the E-Filing page, so that you do not have to reenter your information.

DO NOT REPLY TO THIS MESSAGE. THIS IS A POST-ONLY NOTIFICATION.

MESSAGES SENT DIRECTLY TO THE EMAIL ADDRESS LISTED ABOVE WILL NOT BE READ.

EXHIBIT G

Jeffrey Pagano

From: Mols, Christina <Christina.Mols@nlrb.gov>
Sent: Thursday, May 7, 2020 2:43 PM
To: jayna@teamsterslocal727.org; Jeffrey Pagano
Subject: Eagle Express Election

Hello All,

I am writing you to discuss the Eagle Express mail ballot election. As you know, today is the last day of the stipulated polling and the tally is currently scheduled to occur on Monday, May 11. However, there appear to be delays with mail being returned to the Region. As of this date, only 7 mail ballots have been returned out of approximately 33 voters. Region 13 has historically had similar participation rates in mail ballots as in manual ballots so an approximately 20% return rate is much lower than we typically see.

I wanted to see if the parties would be willing to stipulate to a 2 week extension of the polling to allow for additional time for the return of ballots. If so, I will prepare a stipulation for your signature and I will send a short Notice to Employees to be posted about the extension.

Please let me know today.

Best regards,

Christina Mols

EXHIBIT H

Jeffrey Pagano

From: Bennett, Timothy <Timothy.Bennett@nlrb.gov>
Sent: Friday, May 8, 2020 3:14 PM
To: Jeffrey Pagano; jasonhaslam@eagleexpresslines.com; jayna@teamsterslocal727.org
Cc: Mols, Christina
Subject: Order Extending Mail Ballot Period and Rescheduling Ballot Count, Eagle Express Lines, Inc., 13-RC-258675
Attachments: ORD.13-RC-258675.Order Extending Mail Ballot Period and Rescheduling Ballot Count.pdf

Good Morning,

Attached is the Order Extending Mail Ballot Period and Rescheduling Ballot Count in Eagle Express Lines, Inc., 13-RC-258675. If you have any questions, please contact NLRB Board agent Christina Mols at Christina.Mols@nlrb.gov.

Sincerely,

Timothy D. Bennett
On behalf of Regional Director, Peter Sung Ohr

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

EAGLE EXPRESS LINES, INC.

Employer

and

Case 13-RC-258675

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS LOCAL 727**

Petitioner

**ORDER EXTENDING MAIL BALLOT PERIOD AND
RESCHEDULING BALLOT COUNT**

Following the approval of a stipulated election agreement to hold a mail ballot election, the ballots were mailed by the Regional Office on April 16, 2020 at 5:00 p.m. The ballots were to be commingled and counted on Monday, May 11, 2020. To date, only seven of the 33 mailed ballots to voters has been received by the Regional Office. The Regional Office has experienced intermittent delays in mail delivery by the United States Postal Service and as there is a concern that not all ballots mailed back to the Regional Office have been received, IT IS HEREBY ORDERED that:

The voting period for the mail ballot portion of the election will be extended to Thursday, May 21, 2020. All ballots will be commingled and counted by videoconference at 11:00 a.m. on Tuesday, May 26, 2020. In order to be valid and counted, the returned ballots must be received in the Regional Office prior to the counting of the ballots.

Dated this 8th day of May 2020.

/s/Peter Sung Ohr

Peter Sung Ohr
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-2027

Jeffrey Pagano

From: Jeffrey Pagano
Sent: Friday, May 8, 2020 3:14 PM
To: Mols, Christina; jayna@teamsterslocal727.org
Subject: Re: Eagle Express Election

Ms. Mols,

The request by Region 13 set forth below has been carefully considered by Eagle Express (Employer), particularly within the context of the potential impact of COVID-19 upon the circumstances faced by bargaining unit employees and the means of transmittal of the ballots. It is the position of Employer that the suggested Board process within a representation proceeding, which is designed to ensure the purpose and policy of the Act is effectuated, particularly including Section 9(a) concerning participation by a representative group within the stipulated bargaining unit, is viewed as appropriate. As a consequence, the Employer is willing to stipulate, as Region 13 has suggested, to a 2 week extension of the polling to allow additional time to transpire for the return of ballots. Please prepare a forward an appropriate stipulation.

If you have any questions or requests do not hesitate to contact me.

Regards,

Jeffrey W. Pagano

Partner

Twomey, Latham, Shea, Kelley, Dubin & Quartararo, LLP
33 West Second Street, P.O. Box 9398, Riverhead, NY 11901
T 631.727.2180 x 205 | DD 631.574.2877 | M 516.635.8411 | F 631.727.1767
jpagano@suffolklaw.com | www.suffolklaw.com



CONFIDENTIALITY NOTICE: The information contained in this e-mail and any attachments may be legally privileged and confidential. If you are not an intended recipient, you are hereby notified that any dissemination, distribution or copying of this e-mail is strictly prohibited. If you have received this e-mail in error, please notify the sender and permanently delete the e-mail and any attachments immediately. You should not retain, copy or use this e-mail or any attachment for any purpose, or disclose all or any part of the contents to any other person. Thank you.

From: "Mols, Christina" <Christina.Mols@nrlb.gov>
To: "jayna@teamsterslocal727.org" <jayna@teamsterslocal727.org>, Jeffrey Pagano <jpagano@suffolklaw.com>
Sent: 5/7/2020 2:43 PM
Subject: Eagle Express Election

Hello All,

I am writing you to discuss the Eagle Express mail ballot election. As you know, today is the last day of the stipulated polling and the tally is currently scheduled to occur on Monday, May 11. However, there appear to be delays with mail being returned to the Region. As of this date, only 7 mail ballots have been returned out of approximately 33 voters. Region 13 has historically had similar participation rates in mail ballots as in manual ballots so an approximately 20% return rate is much lower than we typically see.

I wanted to see if the parties would be willing to stipulate to a 2 week extension of the polling to allow for additional time for the return of ballots. If so, I will prepare a stipulation for your signature and I will send a short Notice to Employees to be posted about the extension.

Please let me know today.

Best regards,

Christina Mols

EXHIBIT I

Jeffrey Pagano

From: Bennett, Timothy <Timothy.Bennett@nlrb.gov>
Sent: Thursday, May 21, 2020 5:53 PM
To: Jeffrey Pagano; jasonhaslam@eagleexpresslines.com; jayna@teamsterslocal727.org
Cc: Mols, Christina
Subject: Order Extending Mail Ballot Period, Eagle Express Lines, Inc., 13-RC-258675
Attachments: ORD.13-RC-258675.Order Extending Mail Ballot Period (1).pdf

Good Afternoon,

Attached is the Order Extending Mail Ballot Period in Eagle Express Lines, Inc., 13-RC-258675. If you have any questions, please contact NLRB Board Agent Christina Mols at Christina.Mols@nlrb.gov.

Sincerely,

Timothy D. Bennett
On behalf of Regional Director, Peter Sung Ohr

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 13**

EAGLE EXPRESS LINES, INC.

Employer

and

Case 13-RC-258675

**INTERNATIONAL BROTHERHOOD OF
TEAMSTERS LOCAL 727**

Petitioner

**ORDER EXTENDING MAIL BALLOT PERIOD AND
RESCHEDULING BALLOT COUNT**

Following the approval of a stipulated election agreement to hold a mail ballot election, the ballots were mailed by the Regional Office on April 16, 2020 at 5:00 p.m. The ballots were originally to be commingled and counted on Monday, May 11, 2020. The Regional Office had experienced intermittent delays in mail delivery by the United States Postal Service and as a result, on May 8, 2020, I ordered that the voting period for the election be extended to Thursday, May 21, 2020. The Regional Office had additional mail delays and to date, only eight of the 33 mailed ballots to voters has been received by the Regional Office. As there is still a concern that not all ballots mailed back to the Regional Office have been received, IT IS HEREBY ORDERED that:

The voting period for the mail ballot portion of the election will be extended to Thursday, June 4, 2020. All ballots will be commingled and counted by videoconference at 1:00 p.m. on Tuesday, June 9, 2020. In order to be valid and counted, the returned ballots must be received in the Regional Office prior to the counting of the ballots.

Dated this 21st day of May 2020.

/s/Peter Sung Ohr

Peter Sung Ohr
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 13
Dirksen Federal Building
219 South Dearborn Street, Suite 808
Chicago, IL 60604-2027

EXHIBIT J

Jeffrey Pagano

From: Mols, Christina <Christina.Mols@nrlb.gov>
Sent: Friday, May 22, 2020 10:14 AM
To: jayna@teamsterslocal727.org
Cc: Jeffrey Pagano; jasonhaslam@eagleexpresslines.com
Subject: RE: Order Extending Mail Ballot Period, Eagle Express Lines, Inc.,13-RC-258675

The Region had issues with mail deliveries that now appear to have been resolved. The extra time is to allow for those ballots which have been cast to be delivered. As the parties were hesitant to stipulate to an extension previously, the Regional Director decided to exercise his authority to extend the polling once again.

At no point either after the first extension or this one did the Region unilaterally re-send any ballots. If an employee requests a duplicate then one will be sent. The Region has had to extend the polling of all mail ballot elections that were scheduled to be tallied next week due to the delivery issues.

As I have told you before, all ballots that were delivered to the Regional office are accounted for. Those eight that are mentioned in the order are all that have been delivered. The extension is to provide the opportunity for those who have cast their votes to have those votes counted.

Best regards,

Christina Mols

From: jayna@teamsterslocal727.org <jayna@teamsterslocal727.org>
Sent: Thursday, May 21, 2020 4:57 PM
To: Bennett, Timothy <Timothy.Bennett@nrlb.gov>
Cc: jpagano@suffolkaw.com; jasonhaslam@eagleexpresslines.com; Mols, Christina <Christina.Mols@nrlb.gov>
Subject: RE: Order Extending Mail Ballot Period, Eagle Express Lines, Inc.,13-RC-258675

Christina:

Why weren't the Parties consulted prior to this order? The union has major concerns that the Region has misplaced the ballots.

-----Original Message-----

From: "Bennett, Timothy" <Timothy.Bennett@nrlb.gov>
Sent: Thursday, May 21, 2020 4:53pm
To: "jpagano@suffolkaw.com" <jpagano@suffolkaw.com>, "jasonhaslam@eagleexpresslines.com" <jasonhaslam@eagleexpresslines.com>, "jayna@teamsterslocal727.org" <jayna@teamsterslocal727.org>
Cc: "Mols, Christina" <Christina.Mols@nrlb.gov>
Subject: Order Extending Mail Ballot Period, Eagle Express Lines, Inc.,13-RC-258675

Good Afternoon,

Attached is the Order Extending Mail Ballot Period in Eagle Express Lines, Inc., 13-RC-258675. If you have any questions, please contact NLRB Board Agent Christina Mols at Christina.Mols@nrlb.gov.

Sincerely,

Timothy D. Bennett

On behalf of Regional Director, Peter Sung Ohr

EXHIBIT K

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

Date Filed

EAGLE EXPRESS LINES, INC.

EMPLOYER

AND

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
LOCAL 727

PETITIONER

Case No. 13-RC-258675

APRIL 1, 2020

Date Issued JUNE 1, 2020

City CHICAGO

State IL

Type of Election:
(Check one)

(If applicable check
either or both)

☒ Stipulation

☐ 8(b) (7)

☐ Board Direction

☒ Mail Ballot

☐ Consent Agreement

☐ RD Direction
Incumbent Union (Code)

TALLY OF BALLOTS PRESS FIRMLY

The undersigned agent of the Regional Director certifies that the results of tabulation of ballots case in the election held in the above case, and concluded on the date indicated above, were as follows:

1. Approximate number of eligible voters 31
2. Number of Void ballots 0
3. Number of Votes cast for PETITIONER 7
4. Number of Votes cast for _____
5. Number of Votes cast for _____
6. Number of Votes cast against participating labor organization(s) 0
7. Number of Valid votes counted (sum 3, 4, 5, and 6) 7
8. Number of challenged ballots 1
9. Number of Valid votes counted plus challenged ballots (sum of 7 and 8) 8
10. Challenges are (not) sufficient in number to affect the results of the election.
11. A majority of the valid votes counted plus challenged ballots (Item 9) has (not) been cast for PETITIONER X

For the Regional Director

[Signature]

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For EMPLOYER

Jeff Pagano (present by video conference)

For PETITIONER

Don Leiraw (present by video conference)

For

EXHIBIT L

OFFERS OF PROOF

- 1.) As to Exhibit A, Eagle Express Lines, Inc., (“Eagle”) would call Jayna Brown, General Counsel of the International Brotherhood of Teamsters Local 727, to testify as to the contents, filing, and purpose of Exhibit A.
- 2.) As to Exhibit B, Eagle would call Christina Mols, National Labor Relations Board Field Examiner and Jeffrey W. Pagano, counsel to Eagle, to testify as to the drafting and negotiations concerning the contents of Exhibit B.
- 3.) As to Exhibit C, Eagle would call Peter Sung Ohr, Regional Director of Region 13 of the National Labor Relations Board, to testify as to the approval and contents concerning Exhibit C.
- 4.) As to Exhibit D, Eagle would call Peter Sung Ohr, Regional Director of Region 13 of the National Labor Relations Board, to testify as to the contents of Exhibit D.
- 5.) As to Exhibit E, Eagle would call Jeffrey W. Pagano, counsel to Eagle, to testify as to e-filing of Excelsior list, service of the Excelsior List on Teamsters Local 727 and receipt of Exhibit E.
- 6.) As to Exhibit F, Eagle would call Christina Mols, National Labor Relations Board Field Examiner, to testify as to the Region 13 concerns regarding the United States Postal Service and the participation of the Eagle bargaining unit employees in the mail ballot election as compared to the historic return/participation rate of employees in manual elections conducted by Region 13.
- 7.) As to Exhibit G, Eagle would call Peter Sung Ohr, Regional Director of Region 13 of the National Labor Relations Board and Christina Mols, National Labor Relations Board Field Examiner, to testify concerning the factors considered, the necessity for and process related to Exhibit G and the issuance, without input from Eagle, of Exhibit G.
- 8.) As to Exhibit H, Eagle would call Peter Sung Ohr, Regional Director of Region 13 of the National Labor Relations Board and Christina Mols, National Labor Relations Board Field Examiner, to testify concerning the factors considered, the necessity for and process related to Exhibit H and the issuance, without input from Eagle, of Exhibit H.
- 9.) As to Exhibit I, Eagle would call Peter Sung Ohr, Regional Director of Region 13 of the National Labor Relations Board and Christina Mols, National Labor Relations Board Field Examiner, to testify concerning the eight (8) ballots delivered to Region 13 and the decision making process concerning an extension of the Mail Ballot Period to provide the opportunity for bargaining unit employees who have cast their votes to have their votes counted.
- 10.) As to Exhibit J, Eagle would call Dana Prokop, National Labor Relations Board representative to testify concerning the contents of Exhibit J.